GT 3-31-95 COURTS Gays-Military

'Don't ask, don't tell' ruled illegal

Judge: Military policy on gays unconstitutional

Associated Press

NEW YORK — The first federal judge to rule on the Clinton administration's "don't ask, don't tell" policy on gays in the military declared it unconstitutional Thursday.

U.S. District Judge Eugene Nickerson's ruling barred the Pentagon from discharging six homosexuals. Though it applies only to the six, it represents the first step in a process that could lead to a Supreme Court ruling.

Nickerson said the policy is "nothing short of Orwellian" because it equates sexual orientation with misconduct.

"To presume from a person's status that he or she will commit undesirable acts is an extreme measure," he wrote. "Hitler taught the world what could happen when the government began to target people not for what they had done but because of their status."

Lawyers for the plaintiffs welcomed the ruling but cautioned that it doesn't prevent the Pentagon from taking action against other gays.

"We don't want people to read the paper and think they can come out tomorrow," said Beatrice Dohrn, legal director of the Lambda Legal Defense and Education Fund, which helped represent the plaintiffs.

Justice Department spokesman Carl Stern said the government will appeal.

"We believe the challenged policy is constitutional and we remain committed to defending it," he said.

The Clinton administration adopted the "don't ask, don't tell, don't pursue" policy in 1993 as a compromise between the views of gay rights advocates and those flatly opposed to gays in the military. Previously, the Pentagon removed gay men and lesbians. It said they were a threat to morale and fighting ability.

THE POLICY

The Clinton policy, announced July 19, 1993: "Don't ask, don't tell, don't pursue" prohibited interviewers from asking recruits about their sexual orientation and barred investigations based solely on determining a service member's orientation.

Previously, gay men and lesbians could be discharged or prevented from joining based on sexual orientation, even with no evidence of sexual activity.

Associated Press

The judge said the new policy violates the constitutional rights to free speech and equal protection. "The policy . . . is not only inherently deceptive, it also offers powerful inducements to homosexuals to lie," Nickerson said.

The government, he said, failed to prove its key argument that gay men and lesbians can harm a military unit's cohesion.

"Even if defendants do believe that heterosexual service members will be so upset by a co-worker's mere statement of homosexuality as not to work cooperatively in the unit, such a belief does not justify a discriminatory policy," Nickerson wrote.

None of the five men and one woman could be reached for comment. Their lawyers said they did not wish to make statements.

the race for the 1996 Republican presidential nomination./**A7**

WORLD

▶ **TURKEY WANTS U.S. HELP AGAINST KURDS:** Turkey wants the United States to take over command of its forces in its campaign against Kurdish rebels based in Iraq./**A10**

CITY/REGION

▶ **SPRINGS MEN ARRESTED IN INDIA:** Two Colorado Springs residents were among 11 Americans preaching Christianity who have been arrested by authorities in India after a riot by angry Hindus./**B1**

▶ **FAIR QUEEN NAMED:** Amy Marie Abdella, a Lewis-Palmer High School senior, has been named the 1995 El Paso County Fair queen./**B2**

STATE

▶ **CONCEALED WEAPONS BILL ADVANCES:** The Colorado House passed a bill Friday that would make it much easier for residents to obtain permits to carry concealed weapons./**B5**

OPINION

▶ **CITY UTILITIES:** Issue No. 6 on Tuesday's ballot seems at first to be a worthwhile amendment to the City Charter — but read it carefully, especially the second half of the proposed amendment, writes commentator David White./**B9**

BUSINESS

▶ **STANDING THEIR GROUND IN MEXICO:** Three months into a currency crisis that has battered Mexico's economy, many U.S. businesses have adopted a strategy rejected by fleeing financial investors: Staying put./**B11**

▶ **INNOVATOR HONORED:** A 34-year-old General Motors engineer who developed a system to prevent cars from skidding on ice received a $500,000 prize as the first winner of an award to promote innovation in the United States./**B11**

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SPORTS

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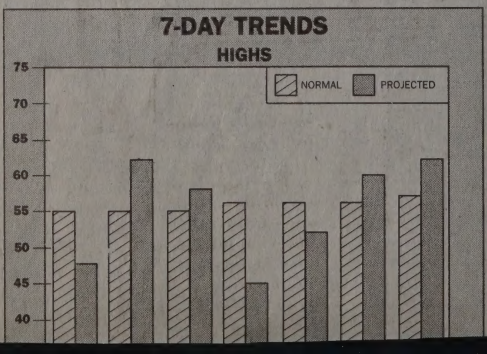
▶ **TALENTED** legends in the l of the past 50 y the Pikes Peak

LOCAL FORECAST

Today: Sunshine, patchy clouds and turning warmer. High 48.
Tonight: A clear and starlit sky. Low 26.
Saturday: Mostly sunny and pleasant. High 62, low 32.
Sunday: Some sun, breezy; chance for a shower. High 58, low 30.
Monday: Brisk, chillier; possible rain or snow shower. High 45, low 24.
Tuesday: Partly sunny, breezy and cool. High 52, low 30.



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Thursday	
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8 a.m.	24